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AMENDED IN ASSEMBLY JUNE 1, 2009
AMENDED IN ASSEMBLY APRIL 2, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1291

Introduced by Assembly Member Niello

February 27, 2009

An act to amend Sections ~~1513~~, 1513.5, *1514*, 1516, 1520, 1532, 1560, 1565, and 1577 of the Code of Civil Procedure, relating to unclaimed property.

LEGISLATIVE COUNSEL'S DIGEST

AB 1291, as amended, Niello. Unclaimed property.

Existing law, the Unclaimed Property Law, governs the disposition of unclaimed property, including the escheat of certain property to the state. Those provisions require a person holding funds or other property escheated to the state to report to the Controller certain information regarding the property and the owner.

Existing law provides for the escheat to the state of (1) certain deposits or accounts made with a banking organization, together with other specified sums, (2) certain deposits, accounts, investment certificates, or other interests in or deposits made with a financial organization, together with other specified sums, and (3) certain funds held by a business association in specified retirement accounts or plans, when the owner, for more than 3 years, has not taken any of certain actions, except as specified.

~~This bill would modify the actions that, if not taken by the owner for more than 3 years, lead to the escheat of the property described above~~

~~by adding to those actions the receipt of tax reports or regular statements by mail from the banking organization, financial organization, or business association regarding the funds, deposit, account, or plan. The bill would provide that receipt of a report or statement by the owner shall be presumed if the organization or association sent the report or statement to the owner by first-class mail and the report or statement was not returned.~~

Existing law requires certain entities to make reasonable efforts to notify owners of certain property, by mail, that the property will escheat to the state under specified provisions of law.

This bill would allow those entities to notify an owner described above electronically ~~when if the owner has consented to electronic notifications~~ *notice*.

Existing law requires the holder of certain property, including certain property held by a banking or financial organization, certain sums held or owing by a business association to shareholders or other specified persons, and tangible property that is held in the ordinary course of the holder's business, to notify the owner, at prescribed times, of information regarding escheat *and to include a form by which the owner may declare an intention to maintain the deposit, account, shares, or other interest*.

This bill would require that those notices contain certain information, and would allow the holder *to provide a telephone number or other electronic means to enable the owner to contact the organization in lieu of returning the above-described form to declare the owner's intent. The bill would authorize the holder to give additional notices, as specified. The bill, commencing January 1, 2011, would require that, at the time a new account is opened with a banking or financial organization, the organization provide a written notice to the person opening the account regarding escheat.*

Existing law provides that the contents of any safe deposit box or any other safekeeping repository held in this state by a business association escheat to the state if unclaimed by the owner for more than 3 years from the date on which the lease or rental period on the box or other repository expired, or from the date of termination of another specified agreement, whichever last occurs.

This bill would provide, instead, that the contents of a safe deposit box or other safekeeping repository held in this state by a bank, financial organization, or business association, or the proceeds of sale of those contents, escheat to the state if unclaimed for more than 3 years from

the later of the 2 dates described above. The bill would require the bank, financial organization, or business association to notify the owner of the contents of a safe deposit box, at either of 2 specified times, regarding escheat, and would specify the contents of the notice. The bill would require that notice to include a form by which the customer may declare an intention to maintain the safe deposit box or other safekeeping repository, and would authorize the bank, financial organization, or business association to impose a service charge for the notice and form. The bill would provide that the contents of a safe deposit box shall not escheat to the state under certain circumstances. The bill would also require a bank, financial organization, or business association to provide a notice regarding escheat to a person opening a new account for a safe deposit box or other safekeeping repository.

Existing law requires every person holding funds or other property escheated to the state to report to the Controller, as specified. Existing law requires every person filing such a report to pay or deliver to the Controller all escheated property specified in the report within a certain period.

This bill would allow the Controller to postpone the date for payment or delivery of the property, and the date for any report required by the above provisions, upon his or her own motion or upon written request by any person required to pay or deliver the property or file a report.

Existing law provides that a person who pays or delivers escheated property to the Controller under the above provisions is relieved of all liability to the extent of the value of the property paid or delivered for any claim that then exists or that thereafter may arise.

This bill would provide, instead, that a person who pays or delivers escheated property to the Controller under the above provisions and who, prior to escheat, if the person's records contain an address for the apparent owner, *which the holder's records do not disclose to be inaccurate*, has made reasonable efforts to notify the owner by mail or electronically that the ~~customer's~~ *owner's* property, deposit, account, shares, or other interest will escheat to the state, is relieved of all liability to the extent of the value of the property paid or delivered for any claim that then exists or that thereafter may arise.

Existing law requires that any property delivered to the Controller pursuant to the above provisions that has no apparent commercial value be retained by the Controller for not less than 18 months from the date the property is delivered to the Controller.

This bill would require, instead, that the Controller retain that property for not less than 7 years.

Existing law requires that any person who fails to report, pay, or deliver unclaimed property within the time prescribed by these provisions, unless that failure is due to reasonable cause, pay to the Controller interest at the rate of 12% per annum on that property or value thereof from the date the property should have been reported, paid, or delivered

This bill would require, in addition, that any person who fails to file a report *substantially* in the time and manner required by specified provisions of law, unless that failure is due to reasonable cause, pay to the Controller interest as described above. *The bill would limit the interest payable to the Controller if a holder has failed to file a report in a required manner, but has timely paid or delivered the property to the Controller.*

This bill would make other related and conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 1513 of the Code of Civil Procedure is~~
2 ~~amended to read:~~
3 ~~1513. (a) Subject to Sections 1510 and 1511, the following~~
4 ~~property held or owing by a business association escheats to this~~
5 ~~state:~~
6 ~~(1) (A) Except as provided in paragraph (6), any demand,~~
7 ~~savings, or matured time deposit, or account subject to a negotiable~~
8 ~~order of withdrawal, made with a banking organization, together~~
9 ~~with any interest or dividends thereon, excluding, from demand~~
10 ~~deposits and accounts subject to a negotiable order of withdrawal~~
11 ~~only, any reasonable service charges that may lawfully be withheld~~
12 ~~and that do not (where made in this state) exceed those set forth~~
13 ~~in schedules filed by the banking organization from time to time~~
14 ~~with the Controller, when the owner, for more than three years,~~
15 ~~has not done any of the following:~~
16 ~~(i) Increased or decreased the amount of the deposit, cashed an~~
17 ~~interest check, or presented the passbook or other similar evidence~~
18 ~~of the deposit for the crediting of interest.~~

1 (ii) ~~Corresponded electronically or in writing with the banking~~
2 ~~organization concerning the deposit.~~

3 (iii) ~~Otherwise indicated an interest in the deposit as evidenced~~
4 ~~by a memorandum or other record on file with the banking~~
5 ~~organization.~~

6 (iv) ~~Received tax reports or regular statements by mail from the~~
7 ~~banking organization regarding the funds or deposit. Receipt of a~~
8 ~~report or statement by the owner shall be presumed if the banking~~
9 ~~organization sent the report or statement to the owner by first-class~~
10 ~~mail and the report or statement was not returned.~~

11 (B) ~~A deposit or account shall not, however, escheat to the state~~
12 ~~if, during the previous three years, the owner has owned another~~
13 ~~deposit or account with the banking organization and, with respect~~
14 ~~to that deposit or account, the owner has done any of the acts~~
15 ~~described in clause (i), (ii), (iii), or (iv) of subparagraph (A), and~~
16 ~~the banking organization has communicated electronically or in~~
17 ~~writing with the owner, at the address to which communications~~
18 ~~regarding that deposit or account are regularly sent, with regard~~
19 ~~to the deposit or account that would otherwise escheat under this~~
20 ~~subdivision. For purposes of this subdivision, “communications”~~
21 ~~means account statements or statements of interest paid for federal~~
22 ~~and state income tax purposes.~~

23 (C) ~~No banking organization may discontinue any interest or~~
24 ~~dividends on any savings deposit because of the inactivity~~
25 ~~contemplated by this section.~~

26 (2) (A) ~~Except as provided in paragraph (6), any demand,~~
27 ~~savings, or matured time deposit, or matured investment certificate,~~
28 ~~or account subject to a negotiable order of withdrawal, or other~~
29 ~~interest in a financial organization or any deposit made therewith,~~
30 ~~and any interest or dividends thereon, excluding, from demand~~
31 ~~deposits and accounts subject to a negotiable order of withdrawal~~
32 ~~only, any reasonable service charges that may lawfully be withheld~~
33 ~~and that do not (where made in this state) exceed those set forth~~
34 ~~in schedules filed by the financial organization from time to time~~
35 ~~with the Controller, when the owner, for more than three years,~~
36 ~~has not done any of the following:~~

37 (i) ~~Increased or decreased the amount of the funds or deposit,~~
38 ~~cashied an interest check, or presented an appropriate record for~~
39 ~~the crediting of interest or dividends.~~

1 (ii) ~~Corresponded electronically or in writing with the financial~~
2 ~~organization concerning the funds or deposit.~~

3 (iii) ~~Otherwise indicated an interest in the funds or deposit as~~
4 ~~evidenced by a memorandum or other record on file with the~~
5 ~~financial organization.~~

6 (iv) ~~Received tax reports or regular statements by mail from the~~
7 ~~financial organization regarding the funds or deposit. Receipt of~~
8 ~~a report or statement by the owner shall be presumed if the financial~~
9 ~~organization sent the report or statement to the owner by first-class~~
10 ~~mail and the report or statement was not returned.~~

11 (B) ~~A deposit or account shall not, however, escheat to the state~~
12 ~~if, during the previous three years, the owner has owned another~~
13 ~~deposit or account with the financial organization and, with respect~~
14 ~~to that deposit or account, the owner has done any of the acts~~
15 ~~described in clause (i), (ii), (iii), or (iv) of subparagraph (A), and~~
16 ~~the financial organization has communicated electronically or in~~
17 ~~writing with the owner, at the address to which communications~~
18 ~~regarding that deposit or account are regularly sent, with regard~~
19 ~~to the deposit or account that would otherwise escheat under this~~
20 ~~subdivision. For purposes of this subdivision, “communications”~~
21 ~~means account statements or statements of interest paid for federal~~
22 ~~and state income tax purposes.~~

23 (C) ~~No financial organization may discontinue any interest or~~
24 ~~dividends on any funds paid toward purchase of shares or other~~
25 ~~interest, or on any deposit, because of the inactivity contemplated~~
26 ~~by this section.~~

27 (3) ~~Any sum payable on a traveler’s check issued by a business~~
28 ~~association that has been outstanding for more than 15 years from~~
29 ~~the date of its issuance, when the owner, for more than 15 years,~~
30 ~~has not corresponded in writing with the business association~~
31 ~~concerning it, or otherwise indicated an interest as evidenced by~~
32 ~~a memorandum or other record on file with the association.~~

33 (4) ~~Any sum payable on any other written instrument on which~~
34 ~~a banking or financial organization is directly liable, including, by~~
35 ~~way of illustration but not of limitation, any draft or certified check,~~
36 ~~that has been outstanding for more than three years from the date~~
37 ~~it was payable, or from the date of its issuance if payable on~~
38 ~~demand, when the owner, for more than three years, has not~~
39 ~~corresponded electronically or in writing with the banking or~~
40 ~~financial organization concerning it, or otherwise indicated an~~

1 interest as evidenced by a memorandum or other record on file
2 with the banking or financial organization.

3 ~~(5) Any sum payable on a money order issued by a business~~
4 ~~association (including a banking or financial organization), that~~
5 ~~has been outstanding for more than seven years from the date it~~
6 ~~was payable, or from the date of its issuance if payable on demand,~~
7 ~~excluding any reasonable service charges that may lawfully be~~
8 ~~withheld and that do not, when made in this state, exceed those~~
9 ~~set forth in schedules filed by the business association from time~~
10 ~~to time with the Controller, when the owner, for more than seven~~
11 ~~years, has not corresponded electronically or in writing with the~~
12 ~~business association, banking, or financial organization concerning~~
13 ~~it, or otherwise indicated an interest as evidenced by a~~
14 ~~memorandum or other record on file with the business association.~~
15 ~~For the purposes of this subdivision, "reasonable service charge"~~
16 ~~means a service charge that meets all of the following requirements:~~

17 ~~(A) It is uniformly applied to all of the issuer's money orders.~~

18 ~~(B) It is clearly disclosed to the purchaser at the time of purchase~~
19 ~~and to the recipient of the money order.~~

20 ~~(C) It does not begin to accrue until three years after the~~
21 ~~purchase date, and it stops accruing after the value of the money~~
22 ~~order escheats.~~

23 ~~(D) It is permitted by contract between the issuer and the~~
24 ~~purchaser.~~

25 ~~(E) It does not exceed 25 cents (\$0.25) per month or the~~
26 ~~aggregate amount of twenty-one dollars (\$21).~~

27 ~~(6) (A) Any funds held by a business association in an~~
28 ~~individual retirement account or under a retirement plan for~~
29 ~~self-employed individuals or similar account or plan established~~
30 ~~pursuant to the internal revenue laws of the United States or of~~
31 ~~this state, when the owner, for more than three years after the funds~~
32 ~~become payable or distributable, has not done any of the following:~~

33 ~~(i) Increased or decreased the principal.~~

34 ~~(ii) Accepted payment of principal or income.~~

35 ~~(iii) Corresponded electronically or in writing concerning the~~
36 ~~property or otherwise indicated an interest.~~

37 ~~(iv) Received tax reports or regular statements by mail from the~~
38 ~~business association regarding the account or plan. Receipt of a~~
39 ~~report or statement by the owner shall be presumed if the business~~

1 association sent the report or statement to the owner by first-class
2 mail and the report or statement was not returned.

3 ~~(B) These funds are not payable or distributable within the~~
4 ~~meaning of this subdivision unless, under the terms of the account~~
5 ~~or plan, distribution of all or a part of the funds would then be~~
6 ~~mandatory.~~

7 ~~(7) Any wages or salaries that have remained unclaimed by the~~
8 ~~owner for more than one year after the wages or salaries become~~
9 ~~payable.~~

10 ~~(b) For purposes of this section “service charges” means service~~
11 ~~charges imposed because of the inactivity contemplated by this~~
12 ~~section.~~

13 ~~SEC. 2.~~

14 *SECTION 1.* Section 1513.5 of the Code of Civil Procedure is
15 amended to read:

16 1513.5. (a) Except as provided in subdivision (c), if the holder
17 has in its records an address for the apparent owner, which the
18 holder’s records do not disclose to be inaccurate, every banking
19 or financial organization shall make reasonable efforts to notify
20 any ~~customer owner~~ by mail or, if the ~~customer owner~~ has
21 consented to electronic ~~notifications~~ *notice*, electronically, that the
22 ~~customer’s owner’s~~ deposit, account, shares, or other interest in
23 the banking or financial organization will escheat to the state
24 pursuant to paragraph (1) or (2) of subdivision (a) of Section 1513.
25 The holder shall give notice either:

26 (1) Not less than two years nor more than two and one-half
27 years after the date of last activity by, or communication with, the
28 owner with respect to the account, deposit, shares, or other interest,
29 as shown on the record of the *banking or* financial organization.

30 (2) Not less than six nor more than 12 months before the time
31 the account, deposit, shares, or other interest becomes reportable
32 to the Controller in accordance with this chapter.

33 (b) The notice required by this section shall specify the time
34 that the deposit, account, shares, or other interest will escheat and
35 the effects of escheat, including the necessity for filing a claim for
36 the return of the deposit, account, shares, or other interest. The
37 face of the notice shall contain a heading ~~centered~~ at the top that
38 reads as follows: “THE STATE OF CALIFORNIA REQUIRES
39 US TO NOTIFY YOU THAT YOUR UNCLAIMED PROPERTY
40 MAY BE TRANSFERRED TO THE STATE IF YOU DO NOT

CONTACT US,” or substantially similar language. The notice required by this section shall, in ~~bold~~ *boldface type* or in a font a minimum of two points larger than the rest of the notice, *exclusive of the heading*, (1) specify that since the date of last activity, or for the last two years, there has been no ~~customer~~ *owner* activity on the deposit, account, shares, or other interest; (2) identify the deposit, account, shares, or other interest by number or identifier, *which need not exceed four digits*; (3) indicate that the deposit, account, shares, or other interest is in danger of escheating to the state; and (4) specify that the California Unclaimed Property Law requires banks, banking organizations, and financial organizations to transfer funds of a deposit, account, shares, or other interest if it has been inactive for three years. It shall also include a form, as prescribed by the Controller, by which the ~~customer~~ *owner* may declare an intention to maintain the deposit, account, shares, or other interest. If that form is filled out, signed by the ~~customer~~ *owner*, and returned to the banking or financial organization, it shall satisfy the requirement of clause (iii) of subparagraph (A) of paragraph (1), or clause (iii) of subparagraph (A) of paragraph (2), of subdivision (a) of Section 1513. *In lieu of returning the form, the banking or financial organization may provide a telephone number or other electronic means to enable the owner to contact that organization. The contact, as evidenced by a memorandum or other record on file with the banking or financial organization, shall satisfy the requirement of clause (iii) of subparagraph (A) of paragraph (1), or clause (iii) of subparagraph (A) of paragraph (2), of subdivision (a) of Section 1513.* The banking or financial organization may impose a service charge on the deposit, account, shares, or other interest for this notice in an amount not to exceed the administrative cost of mailing *or electronically sending* the notice and form and in no case to exceed two dollars (\$2).

(c) Notice as provided by subdivisions (a) and (b) shall not be required for deposits, accounts, shares, or other interests of less than fifty dollars (\$50), and no service charge may be made for notice on these items.

(d) In addition to the notices required pursuant to subdivision (a), the holder may give additional notice as described in subdivision (b) at any time between the date of last activity by, or communication with, the owner and the date the holder transfers the deposit, account, shares, or other interest to the Controller.

(e) At the time a new account is opened with a banking or financial organization, the organization shall provide a written notice to the person opening the account informing the person that his or her property may be transferred to the applicable state if no activity occurs in the account within the time period specified by state law. *If the person opening the account has consented to electronic notice, that notice may be provided electronically. This subdivision shall become effective on January 1, 2011.*

SEC. 2. Section 1514 of the Code of Civil Procedure is amended to read:

1514. (a) The contents of, or the proceeds of sale of the contents of, any safe deposit box or any other safekeeping repository, held in this state by a bank, financial organization, or business association, escheat to this state if unclaimed by the owner for more than three years from the date on which the lease or rental period on the box or other repository expired, or from the date of termination of any agreement because of which the box or other repository was furnished to the owner without cost, whichever last occurs.

(b) *If a bank, financial organization, or business association has in its records an address for an apparent owner of the contents of, or the proceeds of sale of the contents of, a safe deposit box or other safekeeping repository described in subdivision (a), and the records of the bank, financial organization, or business association do not disclose the address to be inaccurate, the bank, financial organization, or business association shall make reasonable efforts to notify the owner by mail, or, if the owner has consented to electronic notification, electronically, that the owner's contents will escheat to the state pursuant to this section. The bank, financial organization, or business association shall give notice either:*

(1) *Not less than two years and not more than two and one-half years after the date of last activity by, or communication with, the owner with respect to the account, deposit, shares, or other interest, as shown on the record of the bank, financial organization, or business association.*

(2) *Not less than six and not more than 12 months before the time the account, deposit, shares, or other interest becomes reportable to the Controller in accordance with this chapter.*

(c) *The notice required by subdivision (b) shall do all of the following:*

1 (1) Specify that since the date of last activity, or for the last two
2 years, there has been no owner activity on the safe deposit box or
3 other safekeeping repository.

4 (2) Identify the safe deposit box or other safekeeping repository
5 by number or identifier.

6 (3) Indicate that the contents of the safe deposit box or other
7 safekeeping repository are in danger of escheating to the state.

8 (4) Specify that the California Unclaimed Property Law requires
9 banks, banking organizations, business associations, and financial
10 organizations to transfer property if it has been inactive for three
11 years.

12 (d) The notice shall also include a form, as prescribed by the
13 Controller, by which the owner may declare an intention to
14 maintain the safe deposit box or other safekeeping repository by
15 either renewing the lease, rental period, or agreement, or otherwise
16 take possession of the property from the bank, financial
17 organization, or business association. If that form is filled out,
18 signed by the owner, and returned to the bank, financial
19 organization, or business association, it shall be considered as a
20 claim for the safe deposit box or other safekeeping repository and
21 the contents shall not escheat. The bank, financial organization,
22 or business association may impose a service charge on the safe
23 deposit box or other safekeeping repository in an amount not to
24 exceed the administrative cost of mailing the notice and form, and
25 in no case to exceed two dollars (\$2).

26 (e) In addition to the notice required pursuant to subdivision
27 (b), the bank, financial organization, or business association may
28 give additional notice in accordance with subdivision (c) at any
29 time between the date of the last activity by, or communication
30 with, the owner and the date the bank, financial organization, or
31 business association transfers the contents of the safe deposit box
32 or other safekeeping repository to the Controller.

33 (f) A safe deposit box or other safekeeping repository shall not,
34 however, escheat to the state if, during the previous three years,
35 the owner has owned any demand, savings, or matured time
36 deposit, or account subject to a negotiable order of withdrawal,
37 made with a bank, financial organization, or business association
38 and, with respect to that deposit or account, the owner has done
39 any of the acts described in clause (i), (ii), (iii), or (iv) of
40 subparagraph (A) of paragraph (1) of subdivision (a) of Section

1 1513 and the bank, financial organization, or business association
2 has communicated electronically or in writing with the owner, at
3 the address to which communications regarding that deposit or
4 account are regularly sent, with regard to the deposit or account
5 that would otherwise escheat under that section. For purposes of
6 this subdivision, “communications” include account statements
7 or statements required under the internal revenue laws of the
8 United States. Notwithstanding the foregoing, in the event the
9 owner is in default under the safe deposit box or other safekeeping
10 repository agreement, the bank, financial organization, or business
11 association may pay or deliver the contents of, or the proceeds of
12 sale of the contents of, the safe deposit box or other safekeeping
13 repository to the owner after deducting any amount due and
14 payable from those proceeds under that agreement. Upon making
15 that payment or delivery under this subdivision, the bank, financial
16 organization, or business association shall be relieved of all
17 liability to the extent of the value of those contents or proceeds.

18 (g) At the time a new account for a safe deposit box or other
19 safekeeping repository is opened with a bank, financial
20 organization, or business association, the bank, financial
21 organization, or business association shall provide a written notice
22 to the person opening the account informing the person that his
23 or her property may be transferred to the applicable state if no
24 activity occurs in the account within the time period specified by
25 state law.

26 (h) A bank, financial organization, or business association may
27 directly escheat the contents of a safe deposit box or other
28 safekeeping repository without exercising its rights under Article
29 2 (commencing with Section 1660) of Chapter 13 of Division 1 of
30 the Financial Code.

31 SEC. 3. Section 1516 of the Code of Civil Procedure is
32 amended to read:

33 1516. (a) Subject to Section 1510, any dividend, profit,
34 distribution, interest, payment on principal, or other sum held or
35 owing by a business association for or to its shareholder, certificate
36 holder, member, bondholder, or other security holder, or a
37 participating patron of a cooperative, who has not claimed it, or
38 corresponded in writing with the business association concerning
39 it, within three years after the date prescribed for payment or
40 delivery, escheats to this state.

(b) Subject to Section 1510, any intangible interest in a business association, as evidenced by the stock records or membership records of the association, escheats to this state if (1) the interest in the association is owned by a person who for more than three years has neither claimed a dividend or other sum referred to in subdivision (a) nor corresponded in writing with the association or otherwise indicated an interest as evidenced by a memorandum or other record on file with the association, and (2) the association does not know the location of the owner at the end of the three-year period. With respect to the interest, the business association shall be deemed the holder.

(c) Subject to Section 1510, any dividends or other distributions held for or owing to a person at the time the stock or other security to which they attach escheats to this state also escheat to this state as of the same time.

(d) ~~With~~ *If the business association has in its records an address for the apparent owner, which the business association's records do not disclose to be inaccurate, with respect to any interest that may escheat pursuant to subdivision (b), the business association shall make reasonable efforts to notify the owner by mail or, if the customer owner has consented to electronic notifications notice, electronically, that the owner's interest in the business association will escheat to the state. The notice shall be given not less than 6 nor more than 12 months before the time the interest in the business association becomes reportable to the Controller in accordance with this chapter. The face of the notice shall contain a heading entered at the top that reads as follows: "THE STATE OF CALIFORNIA REQUIRES US TO NOTIFY YOU THAT YOUR UNCLAIMED PROPERTY MAY BE TRANSFERRED TO THE STATE IF YOU DO NOT CONTACT US," or substantially similar language. The notice required by this subdivision shall specify the time that the interest will escheat and the effects of escheat, including the necessity for filing a claim for the return of the interest. The notice required by this section shall, in ~~bold~~ **boldface type** or in a font a minimum of two points larger than the rest of the notice, exclusive of the heading, (1) specify that since the date of last activity, or for the last two years, there has been no customer activity on the deposit, account, shares, or other interest; (2) identify the deposit, account, shares, or other interest by number or identifier, which need not exceed four digits; (3) indicate that*

1 the deposit, account, shares, or other interest is in danger of
2 escheating to the state; and (4) specify that the California
3 Unclaimed Property Law requires banks, banking organizations,
4 and financial organizations to transfer funds of a deposit, account,
5 shares, or other interest if it has been inactive for three years. It
6 shall also include a form, as prescribed by the Controller, by which
7 the owner may confirm the owner's current address. If that form
8 is filled out, signed by the owner, and returned to the holder, it
9 shall be deemed that the business association knows the location
10 of the owner.

11 *In lieu of returning the form, the business association may provide*
12 *a telephone number or other electronic means to enable the owner*
13 *to contact the association. With that contact, as evidenced by a*
14 *memorandum or other record on file with the business association,*
15 *the business association shall be deemed to know the location of*
16 *the owner. The business association may impose a service charge*
17 *on the deposit, account, shares, or other interest for this notice*
18 *and form in an amount not to exceed the administrative cost of*
19 *mailing or electronically sending the notice and form, and in no*
20 *case to exceed two dollars (\$2).*

21 (e) In addition to the notice required pursuant to subdivision
22 (d), the holder may give additional notice as described in
23 subdivision (d) at any time between the date of last activity by, or
24 communication with, the owner and the date the holder transfers
25 the deposit, shares, or other interest to the Controller.

26 SEC. 4. Section 1520 of the Code of Civil Procedure is
27 amended to read:

28 1520. (a) All tangible personal property located in this state
29 and, subject to Section 1510, all intangible personal property,
30 except property of the classes mentioned in Sections 1511, 1513,
31 1514, 1515, 1515.5, 1516, 1517, 1518, 1519, and 1521, including
32 any income or increment thereon and deducting any lawful charges,
33 that is held or owing in the ordinary course of the holder's business
34 and has remained unclaimed by the owner for more than three
35 years after it became payable or distributable escheats to this state.

36 (b) Except as provided in subdivision (a) of Section 1513.5,
37 subdivision (b) of Section 1514, and subdivision (d) of Section
38 1516, if the holder has in its records an address for the apparent
39 owner of property valued at fifty dollars (\$50) or more, which the
40 holder's records do not disclose to be inaccurate, the holder shall

1 make reasonable efforts to notify the owner by mail or, if the
2 ~~customer owner~~ has consented to electronic ~~notifications~~ *notice*,
3 electronically, that the owner's property will escheat to the state
4 pursuant to this chapter. The notice shall be mailed not less than
5 six nor more than 12 months before the time when the owner's
6 property held by the business becomes reportable to the Controller
7 in accordance with this chapter. The face of the notice shall contain
8 a heading ~~entered~~ at the top that reads as follows: "THE STATE
9 OF CALIFORNIA REQUIRES US TO NOTIFY YOU THAT
10 YOUR UNCLAIMED PROPERTY MAY BE TRANSFERRED
11 TO THE STATE IF YOU DO NOT CONTACT US," or
12 substantially similar language. The notice required by this
13 subdivision shall specify the time when the property will escheat
14 and the effects of escheat, including the need to file a claim in
15 order for the owner's property to be returned to the owner. The
16 notice required by this section shall, in ~~bold~~ *boldface type* or in a
17 font a minimum of two points larger than the rest of the notice,
18 *exclusive of the heading*, (1) specify that since the date of last
19 activity, or for the last two years, there has been no ~~customer owner~~
20 activity on the deposit, account, shares, or other interest; (2)
21 identify the deposit, account, shares, or other interest by number
22 or identifier, *which need not exceed four digits*; (3) indicate that
23 the deposit, account, shares, or other interest is in danger of
24 escheating to the state; and (4) specify that the California
25 Unclaimed Property Law requires banks, banking organizations,
26 and financial organizations to transfer funds of a deposit, account,
27 shares, or other interest if it has been inactive for three years. It
28 shall also include a form, as prescribed by the Controller, by which
29 the owner may confirm the owner's current address. If that form
30 is filled out, signed by the owner, and returned to the holder, it
31 shall be deemed that the account, or other device in which the
32 owner's property is being held, remains currently active and
33 recommences the escheat period. *In lieu of returning the form, the*
34 *holder may provide a telephone number or other electronic means*
35 *to enable the owner to contact the holder. With that contact, as*
36 *evidenced by a memorandum or other record on file with the*
37 *holder, the account or other device in which the owner's property*
38 *is being held shall be deemed to remain currently active and shall*
39 *recommence the escheat period. The holder may impose a service*
40 *charge on the deposit, account, shares, or other interest for this*

1 *notice in an amount not to exceed the administrative cost of mailing*
2 *or electronically sending the notice and form, and in no case to*
3 *exceed two dollars (\$2).*

4 (c) In addition to the notice required pursuant to subdivision
5 (b), the holder may give additional notice as described in
6 subdivision (b) at any time between the date of last activity by, or
7 communication with, the owner and the date the holder transfers
8 the property to the Controller.

9 (d) For purposes of this section, “lawful charges” means charges
10 which are specifically authorized by statute, other than the
11 Unclaimed Property Law, or by a valid, enforceable contract.

12 SEC. 5. Section 1532 of the Code of Civil Procedure is
13 amended to read:

14 1532. (a) Every person filing a report as provided by Section
15 1530 shall, no sooner than seven months and no later than seven
16 months and 15 days after the final date for filing the report, pay
17 or deliver to the Controller all escheated property specified in the
18 report. Any payment of unclaimed cash in an amount of at least
19 twenty thousand dollars (\$20,000) shall be made by electronic
20 funds transfer pursuant to regulations adopted by the Controller.
21 The Controller may postpone the date for payment or delivery of
22 the property, and the date for any report required by subdivision
23 (b), upon his or her own motion or upon written request by any
24 person required to pay or deliver the property or file a report as
25 required by this section.

26 (b) If a person establishes his or her right to receive any property
27 specified in the report to the satisfaction of the holder before that
28 property has been delivered to the Controller, or it appears that,
29 for any other reason, the property may not be subject to escheat
30 under this chapter, the holder shall not pay or deliver the property
31 to the Controller but shall instead file a report with the Controller,
32 on a form and in a format prescribed or approved by the Controller,
33 containing information pertaining to the property not subject to
34 escheat.

35 (c) Any property not paid or delivered pursuant to subdivision
36 (b) that is later determined by the holder to be subject to escheat
37 under this chapter shall not be subject to the interest provision of
38 Section 1577.

39 (d) The holder of any interest under subdivision (b) of Section
40 1516 shall deliver a duplicate certificate to the Controller or shall

1 register the securities in uncertificated form in the name of the
2 Controller. Upon delivering a duplicate certificate or providing
3 evidence of registration of the securities in uncertificated form to
4 the Controller, the holder, any transfer agent, registrar, or other
5 person acting for or on behalf of the holder in executing or
6 delivering the duplicate certificate or registering the uncertificated
7 securities, shall be relieved from all liability of every kind to any
8 person including, but not limited to, any person acquiring the
9 original certificate or the duplicate of the certificate issued to the
10 Controller for any losses or damages resulting to that person by
11 the issuance and delivery to the Controller of the duplicate
12 certificate or the registration of the uncertificated securities to the
13 Controller.

14 (e) Payment of any intangible property to the Controller shall
15 be made at the office of the Controller in Sacramento or at another
16 location as the Controller by regulation may designate. Except as
17 otherwise agreed by the Controller and the holder, tangible personal
18 property shall be delivered to the Controller at the place where it
19 is held.

20 (f) Payment is deemed complete on the date the electronic funds
21 transfer is initiated if the settlement to the state's demand account
22 occurs on or before the banking day following the date the transfer
23 is initiated. If the settlement to the state's demand account does
24 not occur on or before the banking day following the date the
25 transfer is initiated, payment is deemed to occur on the date
26 settlement occurs.

27 (g) Any person required to pay cash by electronic funds transfer
28 who makes the payment by means other than an authorized
29 electronic funds transfer shall be liable for a civil penalty of 2
30 percent of the amount of the payment that is due pursuant to this
31 section, in addition to any other penalty provided by law. Penalties
32 are due at the time of payment. If the Controller finds that a
33 holder's failure to make payment by an appropriate electronic
34 funds transfer in accordance with the Controller's procedures is
35 due to reasonable cause and circumstances beyond the holder's
36 control, and occurred notwithstanding the exercise of ordinary
37 care and in the absence of willful neglect, that holder shall be
38 relieved of the penalties.

39 (h) An electronic funds transfer shall be accomplished by an
40 automated clearinghouse debit, an automated clearinghouse credit,

1 a Federal Reserve Wire Transfer (Fedwire), or by an international
2 funds transfer. Banking costs incurred for the automated
3 clearinghouse debit transaction by the holder shall be paid by the
4 state. Banking costs incurred by the state for the automated
5 clearinghouse credit transaction may be paid by the holder
6 originating the credit. Banking costs incurred for the Fedwire
7 transaction charged to the holder and the state shall be paid by the
8 person originating the transaction. Banking costs charged to the
9 holder and to the state for an international funds transfer may be
10 charged to the holder.

11 (i) For purposes of this section:

12 (1) “Electronic funds transfer” means any transfer of funds,
13 other than a transaction originated by check, draft, or similar paper
14 instrument, that is initiated through an electronic terminal,
15 telephonic instrument, modem, computer, or magnetic tape, so as
16 to order, instruct, or authorize a financial institution to credit or
17 debit an account.

18 (2) “Automated clearinghouse” means any federal reserve bank,
19 or an organization established by agreement with the National
20 Automated Clearing House Association *or any similar*
21 *organization*, that operates as a clearinghouse for transmitting or
22 receiving entries between banks or bank accounts and that
23 authorizes an electronic transfer of funds between those banks or
24 bank accounts.

25 (3) “Automated clearinghouse debit” means a transaction in
26 which the state, through its designated depository bank, originates
27 an automated clearinghouse transaction debiting the holder’s bank
28 account and crediting the state’s bank account for the amount of
29 payment.

30 (4) “Automated clearinghouse credit” means an automated
31 clearinghouse transaction in which the holder, through its own
32 bank, originates an entry crediting the state’s bank account and
33 debiting the holder’s bank account.

34 (5) “Fedwire” means any transaction originated by the holder
35 and utilizing the national electronic payment system to transfer
36 funds through federal reserve banks, pursuant to which the holder
37 debits its own bank account and credits the state’s bank account.

38 (6) “International funds transfer” means any transaction
39 originated by the holder and utilizing the international electronic
40 payment system to transfer funds, pursuant to which the holder

1 debits its own bank account, and credits the funds to a United
2 States bank that credits the Unclaimed Property Fund.

3 SEC. 6. Section 1560 of the Code of Civil Procedure is
4 amended to read:

5 1560. (a) Upon the payment or delivery of escheated property
6 to the Controller, the state shall assume custody and shall be
7 responsible for the safekeeping of the property. Any person who
8 pays or delivers escheated property to the Controller under this
9 chapter and who, prior to escheat, if the person's records contain
10 an address for the apparent owner, *which the holder's records do*
11 *not disclose to be inaccurate*, has made reasonable efforts to notify
12 the owner by mail or, ~~when if~~ the owner has consented to electronic
13 ~~notifications, electronically, as required by notice, electronically,~~
14 *in substantial compliance with* Sections 1513.5, 1514, 1516, and
15 1520, that the ~~customer's~~ *owner's* property, deposit, account,
16 shares, or other interest will escheat to the state, is relieved of all
17 liability to the extent of the value of the property so paid or
18 delivered for any claim which then exists or which thereafter may
19 arise or be made in respect to the property. Property removed from
20 a safe deposit box or other safekeeping repository shall be received
21 by the Controller subject to any valid lien of the holder for rent
22 and other charges, such rent and other charges to be paid out of
23 the proceeds remaining after the Controller has deducted therefrom
24 his *or her* selling cost.

25 (b) Any holder who has paid moneys to the State Controller
26 pursuant to this chapter may make payment to any person appearing
27 to such holder to be entitled thereto, and upon filing proof of such
28 payment and proof that the payee was entitled thereto, the
29 Controller shall forthwith reimburse the holder for the payment
30 without deduction of any fee or other charges. Where
31 reimbursement is sought for a payment made on a negotiable
32 instrument (including a traveler's check or money order), the holder
33 shall be reimbursed under this subdivision upon filing proof that
34 the instrument was duly presented to him *or her* and that payment
35 was made thereon to a person who appeared to the holder to be
36 entitled to payment.

37 (c) The holder shall be reimbursed under this section even if he
38 made the payment to a person whose claim against him was barred
39 because of the expiration of any such period of time as those
40 described in Section 1570.

(d) Any holder who has delivered personal property, including a certificate of any interest in a business association, to the Controller pursuant to this chapter may reclaim such personal property if still in the possession of the Controller without payment of any fee or other charges upon filing proof that the owner thereof has claimed such personal property from such holder. The Controller may, in his or her discretion, accept an affidavit of the holder stating the facts that entitle the holder to reimbursement under this subdivision as sufficient proof for the purposes of this subdivision.

SEC. 7. Section 1565 of the Code of Civil Procedure is amended to read:

1565. Any property delivered to the Controller pursuant to this chapter that has no apparent commercial value shall be retained by the Controller for a period of not less than seven years from the date the property is delivered to the Controller. If the Controller determines that any property delivered to him or her pursuant to this chapter has no apparent commercial value, he or she may at any time thereafter destroy or otherwise dispose of the property, and in that event no action or proceeding shall be brought or maintained against the state or any officer thereof, or against the holder for, or on account of any action taken by, the Controller pursuant to this chapter with respect to the property.

SEC. 8. Section 1577 of the Code of Civil Procedure is amended to read:

1577. (a) In addition to any damages, penalties, or fines for which a person may be liable under other provisions of law, any person who fails to file a report in the time and manner required by Section 1530, or who otherwise fails to report, pay, or deliver unclaimed property within the time prescribed by this chapter, unless that failure is due to reasonable cause, shall pay to the Controller interest at the rate of 12 percent per annum on that property or value thereof from the date the property should have been reported, paid, or delivered.

(b) *Except as provided in subdivision (a), in addition to any damages, penalties, or fines for which a person may be liable under other provisions of law, any person who fails to file a report substantially in the manner required by Section 1530, unless that failure is due to reasonable cause, shall pay to the Controller interest at the rate of 12 percent per annum on that property or*

1 *value thereof from the date the property should have been reported,*
2 *paid, or delivered. If a holder has failed to file a report in a manner*
3 *required by Section 1530, but has timely paid or delivered the*
4 *property to the Controller under Section 1532, the interest payable*
5 *shall not exceed ten thousand dollars (\$10,000).*

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